



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,750	12/11/2003	George Henry Forman	200308713-1	8407
22879 7590 07/14/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528			EXAMINER LE, MICHAEL	
			ART UNIT 2163	PAPER NUMBER
			NOTIFICATION DATE 07/14/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE HENRY FORMAN
and BIN ZHANG

Appeal 2009-004168
Application 10/733,750
Technology Center 2100

Before JOHN A. JEFFERY, JAMES D. THOMAS, and LEE E. BARRETT,
Administrative Patent Judges.

THOMAS, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING ¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

In a paper filed on May 7, 2010 Appellants request that we rehear our Decision in the Opinion dated March 8, 2010 in which we affirmed the Examiner's rejections under 35 U.S.C. § 103 of all claims on appeal.

Beginning at the bottom of page 1 of the Request, Appellants incorrectly take the view that the combination of Haimowitz and Commons does not teach or even hint at heuristic-based routines to iteratively clean newly received data records by modifying them. In addition to the views taken by the Examiner in the Answer, we made significant findings of fact 1 through 4 that clearly indicated to one of ordinary skill in the art what Appellants have admitted to be known in the art with respect to iterative, heuristic processing programs as well as data cleaning operations that modify newly received data records in response to the absence of a matched function occurring as noted at the middle of page 9 our prior Decision. The bulk of the arguments presented in the Request directly address the Examiner's positions in the Answer which had gone unrebutted since no Reply Brief had been filed in this appeal. All such arguments should have been presented in a Reply Brief. In such a situation, we will not now entertain any arguments directed to the Examiner's positions in the Answer since these arguments were presented in an untimely manner. We made specific mention of this fact in our Conclusion and Decision paragraph at page 11 of our prior Decision.

New arguments in a request for rehearing will not be considered. *Cf. Pentax Corp. v. Robinson*, 135 F.3d 760, 762 (Fed. Cir. 1998) (citing cases supporting the proposition that issues not raised before the court are not addressed on rehearing); *Cooper v. Goldfarb*, 154 F.3d 1321, 1331 (Fed.

Circ. 1998) (citing *Moller v. Harding*, 214 USPQ 730, 731 (BPAI 1982), *aff'd*, 714 F.2d 160 (Fed. Cir. 1983) (table)) (“A party cannot wait until after the Board has rendered an adverse decision and then present new arguments in a request for reconsideration.”).

The teachings the Examiner has extensively noted among the applied prior art that we relied upon in our prior Decision in addition to the four findings of fact we noted in reference to certain additional portions of the applied prior art in our prior Decision, clearly teach or suggest to one of ordinary skill in the art the concept argued not to be present among the teachings. Appellants appear to insist that word “modifying” appear within the teachings of the applied prior art in a per se manner, where the correct approach is what the teachings would have taught or suggested to a person of ordinary skill in the art. Appellants appear not to have appreciated the teachings we reproduced in finding of fact 3 from the Abstract of Commons that if no match is found progressively less specific information is used to generate a series of search keys. There is no *ipse dixit* test within 35 U.S.C. § 103.

Page 9 of the Request correctly notes our reference to Kuga’s Abstract made at page 6 of our prior Decision in finding of fact 4. The discussion in the Request fails to consider, however, our brief analysis in the paragraph bridging pages 10 and 11 of our prior Decision making reference to Kuga’s teachings and the view that we considered Kuga to be cumulative for the purposes relied upon by the Examiner to the extensive citations of teachings we made in finding of fact 2 as to Haimowitz.

Appeal 2009-004168
Application 10/733,750

In view of the foregoing, Appellants' Request for Rehearing is granted to the extent that we have reviewed our findings, but it is denied as to making any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

msc

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528